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Tu12b & 13a

June 12, 2000

To: Coastal Commissioners and Interested Parties

From: Jaime C. Kooser, Deputy Director
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Subject: **Addendum to Item Tu12b**
Coastal Development Permit Application E-98-029/Consistency Certification
CC-059-00

The following are proposed clarifications to the staff report for coastal development permit application E-98-029 and consistency certification CC-059-00 (AT&T Corporation). The changes are illustrated by ~~strikethroughs for deletions~~ and underlining for additions.

The fourth paragraph of Section 5.1 should read:

The cables are proposed to be installed in the same general cable corridor as three existing AT&T fiber optic cables (see section 5.2 below; Exhibit 3). The applicant proposes to bury both cables to target depth of 1.0 meter (approximately 3.3 feet), where feasible, from where they surface from the seafloor conduit portals to the 1,000-fathom water depth. In the nearshore, approximately 523 meters of the S7 cable will be laid on low-relief rocky substrates.

Section 5.2 on page 18 should read:

5.2 Prior Fiber Optic Cable Projects Approved by Coastal Commission

Three existing undersea AT&T fiber optic cables extend from a landing site at the Montana de Oro State Park Sandspit Road parking lot ~~to Hawaii~~. Two cables extend to Hawaii. The third cable travels north along the California coastline to Bandon, Oregon before heading west to Japan. The Coastal Commission approved the installation, operation, and maintenance of one cable and four conduits (#4-91-61)¹, HAW-5, in January 1992, and the remaining two cables, TPC5-T1 and TPC5-G (#4-91-006-A1), in September 1994. In April 2000, the Coastal Commission approved the installation of two fiber optic cables within State waters by MFS Globenet and MCI WorldCom (E-99-011) off of Montana de Oro State Park.

¹ In exchange for the granting of cable easements through Montana de Oro State Park, AT&T agreed to construct the Sandspit Road parking lot and day use amenities. These facilities are owned and maintained by the California Department of Parks and Recreation.

The last paragraph on page 25 should read:

No Feasible Less Environmentally Damaging Alternative

After qualifying as an allowable use under section 30233(a), the Commission must find that there is no feasible less environmentally damaging alternative to the proposed project.

Staff has reviewed the applicant's "Analysis of Land Alternative to Segment E1" received by staff on May 5, 2000. The land route proposed by AT&T would involve the installation of conduit, vaults (approximately 15 cubic feet) constructed approximately every 2,000 to 5,000 feet to assist in pulling the cable through conduit, signal regeneration facilities every 50 to 75 miles, and cable markers every 500 to 1,000 feet. Construction methods generally involve trenching or boring and where available, the attachment of cable to bridges. Trenching involves the creation of a ditch measuring four feet deep by one foot wide, installation of conduit, backfilling of the trench, and surface restoration. When sensitive habitat or streams are encountered, the cable would be directionally bored. These activities typically require a minimum 10 to 15 foot wide construction right-of way.

This analysis proposed an overland route along the applicant's existing rights-of-way (ROW) to Bandon, Oregon, but concluded that this route "would result in a variety of environmental impacts of far greater significance" compared to the offshore route. The applicant's conclusion, however, was based on the assumption of impacts to hypothetical resources that may or may not occur along the actual route. For example, if existing conduit exists across some streams, not all the proposed stream crossings would have to be directionally bored. It may also be feasible to attach the cable to existing bridges or overpasses at stream crossings. Moreover, existing ROW may permit the installation of additional cable or new conduit and thus may already consider or mitigate the impacts of additional installations.

Subsequently, on May 17, 2000 staff requested additional information on the applicant's land-based alternative generally concerning terrestrial failure rates and the availability of existing conduit and biological information along existing ROW. The applicant responded to these questions on May 19, 2000. In its response, the applicant states that existing, spare conduit is available along 784 miles of its land-based route to Oregon. New conduit would have to be installed along 211 miles. However, the applicant asserts that due to the size of the E1 cable, which has already been manufactured with armoring for seafloor installation, this existing, spare conduit is too small to house the E1 cable. New cable would have to be manufactured to fit into the existing conduit. AT&T does currently maintain or collect biological resource information or survey data as required by permit conditions authorizing use of its existing ROW. Based on the May 19 response, the applicant estimates that 633 USGS-mapped streams would have to be crossed by a land-based route.

In its May 19 response, the applicant also includes a discussion comparing cable fault or damage rates on land versus at sea. AT&T's overland cable network in California experiences cable cuts or faults 1-2 times a year. In contrast, the applicant maintains that it has never experienced a fault on its buried west coast submarine fiber optic cables since the first one was installed in 1989.

On May 23, 2000, staff submitted another request to the applicant for additional information on the feasibility and potential impacts of using other land-based alternatives such as along railroads, Highway 101, and Interstate 5. Staff received a response from the applicant on May 24, 2000 but did not have sufficient opportunity to review and analyze it before the publication of this report on May 25, 2000. Subsequent to this date, staff has had an opportunity to review this response. The applicant states that it does not own or have access to ROW along “significant portions” of railroad corridors (approximately 3.3% from San Luis Obispo to Oregon) or Highway 101 (approximately 4%) and that “there is no reason to expect lesser environmental impacts than the land route that has already been analyzed by AT&T...” (AT&T, 2000b). AT&T does own ROW along Interstate 5, through public and private lands, from Oregon to Sacramento. From Sacramento to Bakersfield, AT&T’s ROW follows Highway 99. However, according to the applicant, conduit along Interstate 5 and Highway 99 is at its capacity. New conduit would have to be installed along the entire ROW in order to house the E1 cable. The applicant also clarified that it would usually have to seek a ministerial encroachment permit in order to install the E1 cable into existing conduit whereas discretionary permits would likely be required for the installation of new conduit along existing ROWs.

In order to determine the least environmentally damaging alternative to the proposed project, a comparison of the degree of offshore impacts with onshore impacts is appropriate. This staff report identifies potential impacts of the proposed project to marine resources, including but not limited to, marine mammals and infauna and epifauna organisms that reside in or on seafloor substrates, water quality, commercial and recreational fishing, air quality, public access and recreation, and cultural resources. With respect to the S7 cable, the Commission found at its May 2000 hearing that, as conditioned, the proposed project consisting of the S7 cable will be carried out in a manner that maintains marine resources and sustains the biological productivity and quality of coastal waters and therefore is consistent with sections 30230 and 30231 of the Coastal Act. The Commission also found that the proposed project will protect against the spillage of petroleum products and be consistent with air pollution control requirements.

As indicated in the applicant’s proposed land-based route analysis, installation of the E1 cable “would likely have significant adverse environmental impacts that could be mitigated only with a comprehensive plan for addressing effects on air and water quality, biological resources...cultural resources, temporary traffic disruptions, local land uses, and other related impacts” (AT&T, 2000). For example, in order to minimize significant impacts to water quality, stream crossings by the cable would need to be bored by horizontal directional drilling. Where existing conduit across streams is available, the applicant states that “...pulling the cable through such conduit does not by itself have any potential environmental impact unless...the set-up of the winching equipment results in impacts to riparian habitat and streamside resources, or causes unacceptable erosion and sedimentation of the waterway” (AT&T, 2000b). Onshore biological resource impacts can likely be minimized by using previously disturbed corridors and avoiding streams and wetlands by directionally drilling underneath them. If threatened and endangered species are found along the route, protection measures would have to be developed in consultation with resource agencies. Nonetheless, the analysis concludes that: “Even assuming that these impacts could be mitigated to a level of insignificance, it would come at a cost to the

environment that is significantly greater than the relatively benign impacts associated with a marine route...” (AT&T, 2000).

The Commission interprets this conclusion to mean that despite the insignificant impacts associated with a land-based route, the residual impacts would be greater than the impacts of an offshore route. For instance, the applicant cites the possibility, without any supporting data, that air emissions, presumably after mitigation, would be “slightly higher” in the San Luis Obispo region. Potential impacts to sensitive species would likely be permitted but may result in the “take” of these species, which would not occur offshore. Impacts to “impaired” (as defined by the Clean Water Act) rivers and streams may also occur on land but not at sea. However, using this same logic, potential impacts to soft and hard bottom habitats, marine water quality, and marine mammals for example, would be avoided by installing the E1 cable onshore. The applicant does not provide any convincing evidence to prove that the residual impacts of the onshore route are greater than those of the offshore route.

In fact, the potential onshore impacts presented in the applicant’s land-based alternatives analysis are speculative and without site-specific supporting documentation. For example, the mere existence of streams or wetlands within an onshore route does not, by itself, mean that actual significant impacts, especially when mitigated, of an onshore route will occur to those resources. The same argument applies to the existence of plant or animal species and other resources along a cable route. The applicant states that “Potential short-term erosion of spoil tailings derived from roadway trenching *could* result in sedimentation and adverse water quality impacts in nearby streams [emphasis added]” (AT&T, 2000). It is not known, however, whether erosion-susceptible streams are, in fact, nearby roadways along the land-based route. Thus, staff can only compare hypothetical potential impacts to impacts identified in the EIR for the proposed project. A closer examination of route-specific resources may, in fact, reveal that any potential significant impacts can be mitigated to insignificant levels. However, the Commission does not have this information.

The Coastal Act section 30108 defines “feasible” as “...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” The applicant argues that its land-based route is not feasible due to environmental considerations, relying on its overland route analysis in concluding that “...comparative environmental impacts are much greater for an overland route.” As concluded below, however, Commission staff has determined that there is insufficient evidence in the record to find that the offshore route is the least environmentally damaging alternative. The applicant also states that “There are no guarantees that the required environmental permits would be issued by the several agencies of jurisdiction.” This statement is speculative and without any substantiation. Thus, staff is unable to independently determine that the land-based route would not be accomplished in a successful manner.

Additionally, the applicant asserts that a land-based route is not feasible taking into account economic considerations. The applicant has informed staff that the E1 cable is already manufactured for an offshore route and thus would have to be re-manufactured in order to fit into the existing conduit in its land-based route Oregon. In fact, the cable has already been laid 150 km offshore Montana de Oro State Park in anticipation of Commission approval of an offshore

route. According to the applicant, it will take at least one year to manufacture a new E1 cable and one year to pull the cable through conduit from San Luis Obispo to Oregon. Thus, it concludes that “This 2-year delay (and exorbitant cost) in completing the CHUS ‘ring’ would be unacceptable to the CHUS consortium, and the project may never be built, notwithstanding the huge sunk costs that have already been incurred. Delays of this magnitude in an industry where advances in technology far outstrip the installation of necessary hardware would render the CHUS project technologically obsolete before it could ever be ‘turned’ on.”

The decision to manufacture the E1 cable prior to obtaining a coastal development permit was obviously a business decision and thus cannot be reasonably considered a valid economic consideration with respect to the definition of “feasibility”. Moreover, assuming that a two-year “delay” in the project is valid, the applicant does not provide sufficient evidence to prove that the project may never be built. Therefore, staff is unable to conclude that a two-year delay is, in fact, an unreasonable period of time, and that overall, the proposed land-based route is infeasible.

Therefore, staff the Commission has determined that there is insufficient evidence in the record to find that the offshore route is the least environmentally damaging alternative. Thus, the Commission finds that portion of the proposed project consisting of the E1 cable is inconsistent with Coastal Act section 30233.